

COVID-19 pandemic

RELEVANT LEGAL QUESTIONS IN THE CURRENT SITUATION



COVID-19 Legal Questions

WHAT MOVES YOU IN THESE TIMES?

Ever more restrictions are being put in place in order to slow down the spread of the coronavirus. Nowadays a normal life and an organised daily routine are barely possible. Everything has been turned on its head, in both private and working life. But it is not just the here and now that occupies peoples minds, but also the after! What's going to happen in the future? And how quickly will we return to normality? Will it take weeks or months? At the moment it is difficult to provide answers to these questions, but we can start making preparations even at this stage.

In order to enable us to keep you up-to-date with information about all the legal questions, we have created one website on the topic of corona.
www.cbh.de/corona

On the following pages you will find all information and the respective contact person in our practicing areas. In addition, you can send us your questions any time, whether they are questions about the current situation or about potential legal consequences. We have set up an email address specifically for this purpose: corona@cbh.de



COVID-19 Pandemic Plan

AVOIDING CLOSURES

The coronavirus is spreading around the world extremely fast. At this time, operational pandemic plans are vitally important for companies and their employees.

An operational pandemic plan contains general information on COVID-19, and it clarifies the official handling with the affected. In addition, the plan defines in detail the measures that the company needs to take in order to protect its employees and to maintain the ability to operate, avoiding closure.

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COVID-19 Employment Law

ADJUSTMENT OF OPERATING PROCEDURES

In this corona pandemic time, companies are being confronted with numerous logistical, economic and legal challenges. A significant part of these challenges is related to employment law questions, which are not at last presented by employees and interest groups

The dynamic development of the last few days and weeks requires a close eye on on day-to-day political events, so that fast and pragmatic solutions can be found.

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COVID-19 Compensation



SAVING COMPANIES

Enforcement measures put into place by the government to combat the coronavirus pandemic have put severe constraints on the economy. A number of sectors have already completely shut down. It is probable that the measures will be tightened and prolonged. In this situation, which threatens the existence of many companies, a question which arises is whether and to what extent it is possible to claim for damages.

Politicians state that they want to provide with billions of Euros in order to mitigate the economic impact. However, this money will come in the form of loans, credit guarantees and other voluntary government aid. Loans have to be repaid, generally plus interest, while compensation does not. The relevant provisions of the Infection Protection Act are, however, not particularly meaningful in terms of the questions on compensation that are currently being posed. They are obviously “not made” for the situation we are currently experiencing.

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COVID-19 Government Aid



PACKAGE OF MEASURES PLANNED BY THE GOVERNMENT

Politicians have announced that they wish to provide fast, unbureaucratic aid to companies that find themselves in financial difficulty due to the corona crises. To achieve this, on 13.03.2020 the Federal Ministry announced a package of measures aimed at cushioning the effects of coronavirus. What needs to be done today to be in order to benefit from this aid and, above all, to profit from the aggregated advantages in the future?

Corona aids are also government subsidies, and these are frequently granted with a grand gesture and later quietly claimed back. Like any state activity, they are subject to control by audit officers and courts of auditors. If these ones, many years later, determine that the requirements for the funding were not met, or ceased to exist, then the decision to make the grant is revoked or the loan agreements with the credit banks are cancelled, and the funds that were granted will be claimed back. As known, working with government funds is dangerous, because we usually see less bureaucracy when the funds are granted and a lot of bureaucracy at the end, when the funds are claimed back.

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COVID-19 Banking law and Financing



BORROWING TO PROTECT LIQUIDITY

The corona pandemic is causing a considerable impact on the German economy. Many companies are struggling for survival, and if their liquidity reserves hold to maintain a healthy and orderly operation are not already exhausted they may soon be. In the meantime, politicians have earmarked “emergency aid” for businesses that are in financial difficulties as a result of the coronavirus. Germany’s credit institution for reconstruction, the Kreditanstalt für Wiederaufbau (KfW), also assists companies in dealing with the corona crisis by facilitating the short-term supply of liquidity. The KfW will use existing credit programmes for this and will revise the requirements and conditions of access to them. It should be noted, however, that these lines of credit are not grants, but normal loans that must be repaid. Companies, self-employed and freelancers who wish to take advantage of aid from KfW must, however, first apply to their own banks, which will act as brokers for the KfW loan in question.

But before companies rush into taking advantage of liquidity aid, they must make sure that they know which aid programme and loan are appropriate in the respective case, and what conditions they have to fulfil in order to apply for them. This requires careful and due examination.

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COVID-19 Procurement Law

LEGAL AND SECURE AWARDING IN TIMES OF CRISES

During these corona pandemic times, many public sector clients are faced with the need for rapid procurement, as well as with questions about possible amendments to existing contracts. At the same time, bidders are dealing with uncertainty about how to deal with the currently unforeseeable impacts of the corona pandemic.

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COVID-19 Corporate Law

RESTRICTED FREEDOM OF ASSEMBLY

In this COVID-19 pandemic period, companies are being confronted with numerous logistical, economic and legal challenges. In the current situation, with enforcement measures such as a restriction on the freedom of assembly and the so-called “contact ban” put into place by the government to combat the COVID-19 pandemic, specially board members and managing partners are facing big challenges.

As part of a new law published on 27.03.2020 ruling measures in companies, cooperatives, associations, foundations and condominium law to combat the impacts of the COVID-19 pandemic, the Federal Government has simplified the wording of shareholders’ resolutions for a GmbH (limited company), allowing outside shareholders’ meetings.

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COVID-19 Contract Law

USING CONTRACTUAL LATITUDE

The corona pandemic and the consequences arising from it are currently presenting companies with enormous challenges. Alongside the challenges of safeguarding the health of their employees as well as their short and long-term liquidity, companies are usually connected to business partners through a wide variety of contractual relationships. As a result of corona many questions arise out in connection with these contractual relationships.

In order to prevent themselves from facing “unpleasant” surprises added to the actual difficult situation, companies must not lose sight of these questions. For this reason they should not ignore the situation, but proactively ensure that possible impacts of the corona pandemic on existing contracts are reviewed, so that the companies can take timely measures to prevent or limit any contractual risks.

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COVID-19 Commercial Tenancy Law

PAYMENT OF RENT DURING THE CRISIS

The corona crisis poses questions to tenants and landlords of commercial property regarding their existence, and there are at this moment no certain answers to these. We have been advising commercial tenants and landlords since the beginning of the crisis, and together with our clients we have developed strategies for the way tenants and landlords should behave during this uncertain period. The most pressing question is whether tenants still have to pay the agreed rent despite the crisis.

The law passed by the German Bundestag on 25th aimed at mitigating the consequences of the COVID-19 pandemic in civil, insolvency and criminal law fails to answer this question. The law offers only very limited protection against termination of leases due to non-payment.

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COVID-19 Intellectual Property Law

DEADLINE COMPLIANCE AND PROCESS HANDLING

The global pandemic is also leading to necessary adaptations in the area of intellectual property law. This relates in particular to processes before authorities and courts, which are facing special challenges to both their personnel and the organisations due to the current situation. But since there is no uniform procedure here, it is important to keep track of the different jurisdictions, especially in the key areas of deadline compliance and process handling. Together with our international network of correspondence colleagues we guarantee this.

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COVID-19 Construction Law

IMPACTS ON CONSTRUCTION PROCESSES

The spread of the coronavirus also poses many unknown challenges for developers, construction companies and other parties involved in construction. Besides shortages in liquidity, the question arises, in particular, as to what legal impacts there will be on contractual relationships and the construction process from, for instance, official pandemic plans, illness or quarantine of workers, difficulties in procuring materials or even the closure of the construction site.

The way in which the aforementioned risks impact on contract design and procurement procedures is also of significance, since it will in all likelihood not be possible to invoke force majeure or unavoidable circumstances in the case of contracts concluded during the corona crisis.

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COVID-19 Public Construction and Planning Law

EFFECTIVE PLANNING PROCEDURES, EVEN IN THE CRISIS

The current measures for dealing with the corona crisis also have an influence on public construction and planning law, and pose ever-changing challenges, especially for authorities and project sponsors.

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We are already actively involved in consultations with many clients to help them in dealing with the current situation. We would be happy to help you, too, with our legal expertise.